

OCTOBER 16, 2017

The regularly scheduled meeting of the Mansfield Township Land Use Board was called to order by Chairman Chairman Vaezi at 7:30 PM.

1. posting a notice of this meeting on the bulletin board of the Municipal Building;
2. causing said notice to be published in The Express Times;
3. furnishing said notice to those persons requesting it pursuant to the Open Public Meetings Act; and
4. filing said notice with the Township Clerk.

Present: Chairman Vaezi, Farino, Mayor Watters, Hayes, Hight, Spender, Barton, Minter, Jewell

Absent: none

Also present: William Edleston, Esquire; Drew DiSessa, P.E.

The Pledge of Allegiance was recited.

Regarding the September 18, 2017 minutes Farino mentioned on page 3 at the bottom of the first paragraph he was "in favor of the business owned rollback truck being allowed to deliver vehicles there". DiSessa indicated on page 2 properly should be property.

MOTION was made by **MAYOR WATTERS** to approve the **minutes** of the **September 18, 2017** meeting, as amended.

SECONDED: CHAIRMAN VAEZI

Those in favor: Chairman Vaezi, Farino, Mayor Watters, Hayes, Spender, Jewell

Opposed: none

Abstained: Hight, Barton

Case #17-05, DPW Holdings, LLC – Don Warzecha

Present for the applicant: John Paul Velez, Esq; Mr. Jeff Careaga, P.E.; Don Warzecha

All witnesses were sworn in by Edleston.

Careaga provided his credentials as a principle with Careaga. Edleston stated Careaga is recognized as an expert in the field of civil engineering.

Careaga provided a description of the analysis for the undersized lot Block 1204 Lot 8.01, 305 Hazen Rd and the approvals already obtained per the application.

Edleston requested the Board deem the application complete before continuing, and asked if anyone had any questions regarding Drew's recommendations as far as written requests for waivers.

CHAIRMAN VAEZI asked if taxes have been paid, DISESSA noted there is a tax certification in the packet.

MOTION was made by **FARINO** to deem the application for **Case #17-05, DPW Holdings, LLC – Don Warzecha** complete and grant requested waivers.

SECONDED: HAYES

Those in favor: Chairman Vaezi, Farino, Mayor Watters, Hayes, Spender, Jewell, Hight, Minter, Barton

Opposed: none

Abstained: none

Careaga provided a page containing 4 photos of the property shown as Exhibit 1 as requested in DiSessa's 10/15/17 correspondence.

Chairman Vaezi asked if Warzecha also owned Lot 8.02 and if the properties could be combined. Warzecha stated he does and it already has a dwelling on it. Warzecha then explained that back in 1988 a contractor purchased this property with the intention of building 4 houses on it which was then one acre zoning. The contractor then went bankrupt so a neighbor by the railroad tracks took possession of it, and then sold it to Warzecha in 2005. The intention was to build for son but son moved somewhere else, now paying taxes on an empty lot so it's time to do something with it.

Edleston confirmed that Warzecha is requesting bulk variance for minimum lot area and confirmed that all other bulk requirements and setbacks will be met.

Careaga indicated there was an additional variance requested for the shed which is no longer required since they belong to the neighbor. Warzecha confirmed the neighbor will be removing the two sheds and a gazebo from the property.

Chairman Vaezi asked why the septic and well were reversed having the septic in front yard. Careaga replied they wanted to keep the septic away from the Wetlands in the back yard. Some discussion then ensued regarding the septic distance from the proposed building. DiSessa indicated it is a requirement to be 25 ft from structure. Careaga indicated the Board of Health has already approved the septic plan but it will be revised to show the field as more of a square to meet this distance requirement.

Careaga stated that they currently have Highlands, DEP Wetlands and Health Department approvals but held off on the Flood Hazard Area approval in case anything needed to change per the Board it could be done before submitting the site plan to them.

Mayor Watters asked about the Highlands Preservation formula used to determine the impervious coverage. Careaga stated there is a one acre maximum disturbance and ¼ acre maximum building coverage which does not include septic.

Chairman Vaezi asked if DiSessa approves of the driveway plan. DiSessa mentioned that a driveway permit application would also have to be submitted per his report.

CHAIRMAN VAEZI opened the Hearing to the general public for comments or questions.

CHAIRMAN VAEZI closed the public Hearing since there were no comments or questions.

MOTION was made by **HAYES** to approve the minimum lot area variance application for **Case #17-05, DPW Holdings, LLC** with the discussed updates and removal of the sheds and gazebo.

SECONDED: HIGHT

Jewell requested clarification from Chairman Vaezi on the side yard setback that was mentioned. Careaga explained that the side yard setback is not applicable since the sheds are being removed.

Those in favor: Chairman Vaezi, Farino, Mayor Watters, Hayes, Spender, Jewell, Hight, Minter, Barton

Opposed: none

Abstained: none

Edleston introduced a Resolution appointing JoAnn Griffith as the Board Secretary for the remainder of 2017.

MOTION was made by **CHAIRMAN VAEZI** to approve the appointment Resolution.

SECONDED: BARTON

Those in favor: Chairman Vaezi, Farino, Mayor Watters, Hayes, Spender, Jewell, Hight, Minter, Barton

Opposed: none

Abstained: none

Edleston asked if the Board would like to discuss what is and is not permitted in front of the fence of the property occupied by NJ CARS, LLC. A letter was sent to Mr. and Mrs. Thompson, as was instructed at the September meeting, indicating that the Board would be clarifying this issue. Although this topic was discussed extensively at the February meeting, this was in response to a request by Mr. & Mrs. Thompson for an interpretation by our Zoning Officer/Engineer as to the issue of enforcement. DiSessa indicated in his letter that the resolution was not ambiguous and that it does indicate that NJ CARS, LLC was only required to have vehicles under its control subject to parking behind the fence. The Board wanted to clarify this officially on record so that our Zoning Officer could enforce this. Edleston noted he had received a letter from Mr. & Mrs. Thompson's attorney indicating that the application cannot be re-opened and the appropriate procedure would require NJ CARS to submit an application.

Chairman Vaezi asked if this notice had gone to NJ CARs. Edleston indicated he did not since Mr. & Mrs. Thompson had been at our meetings questioning this issue but will if the Board feels a clarification requires them to file an application.

Minter felt this has been discussed adnauseam and agreed that if there was going to be a change to the Resolution an application would have to be filed.

Chairman Vaezi asked about DiSessa's interpretation. DiSessa mentioned he went back to the resolution and issued a letter of opinion to Edleston interpreting the way the resolution read to him

refers to the question of whether the use in '83 has expanded to the storage or display of vehicles, whether used cars waiting resale or other type of vehicles under the control of the owner of the junkyard facility, parked or displayed in front of the fence. The other part of the conditions are, accordingly the Board does hereby conclude that any display or parking of vehicles in front of the fence is not permitted as an extension of the lawful non-conforming use. Parking of the vehicles under the control of the junkyard owner, being a forklift, operational vehicles or junked cars should be behind the fence, not necessarily employee or customer vehicles.

Several Board members discussed their understanding of what should actually be considered operational vehicles conducting business behind the fence. Hayes asked whether DiSessa is still issuing violations. DiSessa replied he has not issued any in a while.

DiSessa read an excerpt from the Resolution's conditions: *(d) whether the 1983 use has expanded by the storage or display of vehicles whether used cars awaiting resale or any other type of vehicles under the control of the owner of the junkyard by being stored, parked or displayed in front of the fence which operates as a screen of the facility from the highway and other property owners; (e) accordingly the Board does hereby conclude that any display or parking of vehicles in front of the fence on Lot 6 Block 1501 is not permitted as an extension of the lawful nonconforming use of the premises behind the fence as a junkyard, auto salvage and used car sale facility.*

DiSessa expressed there are gray areas with deliveries, the white pickup with lift gate and the flatbed being out front for some period of time. Based on the photos it is difficult to tell what's happening without being there 24x7. There are a lot of things that could happen outside of this Resolution.

Chairman Vaezi asked Edleston how the Court matter related to the Board's Resolution. Edleston replied that the court upheld the decision of the Board and it's resolution and that the Court did not get into the nuances. Without having had NJ CARS provide testimony on the Thompson application, the only way to re-open the decision is to have NJ CARS make application.

CHAIRMAN VAEZI opened the meeting for public comment.

Mr. Thompson showed a photo to Farino. Mrs. Thompson cited the deed agreement and asked the Board review the Township Junkyard Ordinance indicating the lack of enforcement of the approved Resolution.

Chairman Vaezi mentioned that the deed was already part of the Resolution and the Judge determined that the junkyard needs to abide by the Resolution. Mrs. Thompson's believes that the junkyard is taking advantage and not abiding by the Resolution.

Edleston stated that the Board has no enforcement authority over the Township's Zoning Officer. Edleston reiterated the Board is not changing the Resolution or reopening the case and that the Resolution speaks for itself which the Zoning Officer interpreted. Mrs. Thompson emphatically stated "it's not working!"

Chairman Vaezi stated when NJ CARS moved into this property the parking lot and fence were already there. Mrs. Thompson explained that they brought a used car lot from Carney, while Chairman Vaezi stated that this is all behind the fence now.

Mrs. Thompson stated the Board will hear from her attorney.

Rich Bross, 631 Valley Rd, stated when he was a kid his father used to go to that junkyard and pick up old trucks that were left out overnight.

CHAIRMAN VAEZI closed the public portion.

Cruts asked that since they are in an industrial zone and if no parking is allowed in front of that business then do the surrounding businesses have to park somewhere else also.

Minter explained that they have a deed with that restriction.

Jewell addressed Cruts' misunderstanding explaining that this is due to it being a prior existing nonconforming use unlike other industrial businesses in that area.

Old Business:

Spender asked if anything ever happened with the trucking company on the farm on Watters Rd with moving the lot line. He's running large trucks that do not appear to be involved in any farming.

Cruts mentioned that they just received Commercial Farm approval. DiSessa stated that Warren County sent paperwork which has to be interpreted. Cruts noted there are two bridges, one on each side of Watters Rd.

Cruts asked why the County can grant this without consulting with us. Edleston indicated that they do not have to give us a cursory review. Edleston mentioned DiSessa sent the Warren County's Commercial Farm approval to him which will have to be reviewed and should come in front of the Board. Minter suggested this be on the heels of the zoning violation issued for having a business in a residential zone. DiSessa suggested he and Edleston will come up with next steps.

Hayes mentioned the DOT repaving continuation of Rt. 57 next year which Bill Hotz should be alerted of this for the water main work to be done before the paving. Edleston will call and advise him of this.

MOTION was made by **SPENDER** to authorize the Township Committee to pay the professional invoices.

SECONDED: FARINO

Those in favor: Chairman Vaezi, Farino, Mayor Watters, Hayes, Spender, Jewell, Hight, Minter, Barton

Opposed: none

Abstained: none

Farino re-clarified since the Thompson's are under a different opinion of what the Board's interpretation is, NJ CARS has to come to us with an application.

Chairman Vaezi asked about the Meadows project making application to the Board for changes to their plan. Edleston mentioned there is a meeting tomorrow regarding the COAH development requirements which may provide us an opportunity to negotiate something with them.

The Chairman adjourned the meeting at 9:00 PM.

Respectfully submitted,

JoAnn Griffith, Clerk
10/16/17